

Exhibit 108

* * * FOR ATTORNEYS' EYES ONLY * * *

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1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 Norfolk Division
4

5 CSX TRANSPORTATION, INC,
6 individually and on behalf of
7 NORFOLK & PORTSMOUTH BELT LINE
8 RAILROAD COMPANY,

9 Plaintiff,

10 vs.

Case No. 2:18-CV-530

11
12 NORFOLK SOUTHERN RAILWAY COMPANY,
13 NORFOLK & PORTSMOUTH BELT LINE
14 RAILROAD COMPANY, JERRY HALL,
15 THOMAS HURLBUT, PHILIP MERILLI
16 and CANNON MOSS,

17 Defendants.
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25 Job No. CS4358762

* * * FOR ATTORNEYS' EYES ONLY * * *

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1 The Recorded Deposition of CHRIS WAGEL,
2 Taken via Hanson remote,
3 Commencing at 9:36 a.m.,
4 Monday, December 7, 2020,
5 Before Dora L. Benson, CSR-6110.

6
7 Court reporter, attorney(s) and witness appearing remotely.

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9 APPEARANCES:

10
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18 Co-Counsel appearing on behalf of the Plaintiff CSX
19 Transportation and Chris Wagel.
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1 A. No.

2 Q. Were you asked to look for any other kinds of business
3 records to --

4 A. No.

5 Q. -- support that 200 container number?

6 A. I was just asked to -- here, it is. Here's the
7 information.

8 Q. Okay. When you say in that drayage can reliably
9 handle, what do you -- what do you mean by reliably
10 handle?

11 A. Actually get it done. You could have an accident in
12 the tunnel. You could have an accident on the main
13 road that comes in and out of NIT, which could happen.
14 Something in the tunnel happens, you have to go to the
15 other. So there was a little -- a few stumbling
16 blocks. Because typically they would take the midtown
17 versus the downtown because it was closest.

18 Q. Were there other factors that affected whether
19 containers would reliably be drayed?

20 A. Gate hours, the availability of drivers, chassis,
21 backups at NIT on the gate.

22 Q. Can you recall how many times you had a problem with
23 availability of drivers?

24 A. Not off the top of my head, but if they're not
25 available -- I mean, sometimes they would get stuck in

1 Saturday, but never on Sunday.

2 BY MS. REINHART:

3 Q. If I heard you correctly, I heard you say that
4 sometimes they would change for business needs. Are
5 you aware of whether there were times when the gates
6 were open longer than 5 a.m. to 6 p.m.?

7 A. There were probably a few instances while I was there.
8 The exact number I don't know, but I remember seeing
9 e-mails from the port that they did do that
10 occasionally.

11 Q. Do you know how it was determined when the gates would
12 be open beyond 5 a.m. to 6 p.m.?

13 A. If there was, like, a weather event, something with a
14 stacking operation, something with maybe a breakdown
15 on the main road moving in and out of NIT, they would
16 make changes. And it was always communicated via
17 e-mail.

18 Q. Do you know whether there were weekend hours?

19 A. Sometimes they would run Saturday hours, but it was
20 rare.

21 Q. Do you know how they determined to run Saturday hours?

22 A. I do not know, no.

23 Q. Did you ever ask the port to extend the gate hours?

24 A. No.

25 Q. Do you know if anybody at CSX asked the port to extend